

(Mr. LEVIN) was added as a cosponsor of S. 1571, a bill to reform the essential air service program, and for other purposes.

S. 1588

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1588, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1755

At the request of Mr. CASEY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to make permanent the summer food service pilot project for rural areas of Pennsylvania and apply the program to rural areas of every State.

S. 1995

At the request of Mr. SALAZAR, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1995, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 2314

At the request of Mr. SALAZAR, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2314, a bill to amend the Internal Revenue Code of 1986 to make geothermal heat pump systems eligible for the energy credit and the residential energy efficient property credit, and for other purposes.

S. 2366

At the request of Mr. VITTER, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2366, a bill to provide immigration reform by securing America's borders, clarifying and enforcing existing laws, and enabling a practical verification program.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 2369, a bill to amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

S. 2504

At the request of Mr. NELSON of Florida, the names of the Senator from Maine (Ms. COLLINS), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Oregon (Mr. SMITH) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2682

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S.

2682, a bill to direct United States funding to the United Nations Population Fund for certain purposes.

S. 2760

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2760, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 2771

At the request of Ms. LANDRIEU, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2771, a bill to require the president to call a White House Conference on Children and Youth in 2010.

S. 2790

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2790, a bill to amend title XVIII of the Social Security Act to provide for coverage of comprehensive cancer care planning under the Medicare program and to improve the care furnished to individuals diagnosed with cancer by establishing a Medicare hospice care demonstration program and grants programs for cancer palliative care and symptom management programs, provider education, and related research.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 2844

At the request of Mr. LAUTENBERG, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2844, a bill to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes.

S. 2910

At the request of Ms. SNOWE, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Maine (Ms. COLLINS) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2910, a bill to require brokers to disclose and pay independent truckers for any fuel surcharges received from shippers that relate to fuel costs paid for by the truckers.

S. 2942

At the request of Mr. CARDIN, the name of the Senator from New Hamp-

shire (Mr. GREGG) was added as a cosponsor of S. 2942, a bill to authorize funding for the National Advocacy Center.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN:

S. 3033. A bill to protect investors by fostering transparency and accountability of attorneys in private securities litigation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORNYN. Mr. President, today I am proud to introduce the Securities Litigation Attorney Accountability and Transparency Act. The Bill promotes transparency and court oversight in the selection and compensation of class counsel in securities class action litigation. As a result, this legislation helps to ensure that the lawyer for shareholder plaintiffs in securities class action lawsuits truly and faithfully represents the interests of the entire class, and not just their own interests and those of the large investors who are the lead plaintiffs. It has been said that the lead attorney in a class action suit serves a quasi-governmental role in that he seeks to enforce the law on behalf of a broad group of ordinary citizens and the investor community at large. Bringing transparency and accountability to securities class action litigation is important to protect the rights and interests of every American who owns stock.

When a class action lawsuit is brought against a company for defrauding shareholders, one of the first steps is the selection of the lead plaintiff. The lead plaintiff is the shareholder who will actually sit in the courtroom and represent the interests of all of the shareholders in the litigation. The lead plaintiff selects the lawyer who will represent the class in the lawsuit, subject only to approval by the court.

Under the Private Securities Litigation Reform Act of 1995, the lead plaintiff is supposed to be the shareholder "that the court determines to be most capable of adequately representing the interests of class members." 15 U.S.C. 78u-4(a)(3)(B)(i). The PSLRA creates a presumption that, in general, the lead plaintiff should be the plaintiff with the "largest financial interest in the relief sought by the class." 15 U.S.C. 78u-4(a)(3)(B)(iii)(bb). The theory behind this rule is that the party with the most at stake will most vigorously defend the interests of the entire class. In general, this theory has proven true, and the PSLRA is a substantial improvement over the law before the PSLRA, in which the lead plaintiff was generally whoever first filed the lawsuit.

However, as recent events have shown, the PSLRA has itself proven subject to abuse. The Bill that I introduce today has been made necessary by recent scandals in which lawyers entered secret arrangements with lead plaintiffs to keep an unfair amount of

the lawsuit's proceeds between them, while shutting out ordinary investors. Essentially, the lead plaintiff agreed to an unreasonably high attorneys' fee, with the understanding that the law firm would funnel a portion of that fee back to the lead plaintiff. Thus, the lawyers were overcompensated and the lead plaintiffs received a disproportionate share of the proceeds of the lawsuit. Ordinary investors, who the class action system is designed to protect, bore the costs of these illegal arrangements.

Today, William Lerach, once a name partner at the law firm of Milberg, Weiss, Bershad, Hynes & Lerach LLP, reports to the United States Penitentiary in Lompoc, California, after pleading guilty to entering into this type of illegal kickback arrangement with lead plaintiffs. Next month, his former law partner Melvyn Weiss will be sentenced for the same crime. But there is reason to believe that this criminal activity is not limited to a few bad actors. Indeed, Mr. Lerach, unrepentant about having defrauded thousands of investors out of millions of dollars, has tried to defend himself on the basis that "everybody does it." "Believe me," Mr. Lerach told the Wall Street Journal, "it was industry practice."

There have been many calls for reform to address this potentially widespread criminal practice. Last month, The Washington Post editorialized in response to the Milberg Weiss scandal that "What is needed now is a sober discussion about how best to achieve a fairer, more balanced legal system through comprehensive tort reform.... Smart and ethical businesspeople and lawyers—and, yes, there are many who fit the bill—would be wise to start working together to craft such a fix." This bill opens that discussion.

The bill that I introduce today seeks to prevent securities litigation abuse by making two major reforms that directly address the two core problems that have led to this scandal—the potential for backdoor arrangements between lead plaintiffs and class counsel, and the resulting risk that lead plaintiffs will enter fee agreements that pay the lawyers more than the market rate.

The bill would require sworn certifications from lead plaintiffs and their attorneys disclosing: (a) any payments or promises of payment made by the attorney to the plaintiff in connection with the action; (b) any other legal representations of the plaintiff by the attorney; (c) any campaign contributions the attorney has made to any elected official with authority to retain counsel for the plaintiff; and (d) any other conflicts of interest. This disclosure would put an end to secret agreements where plaintiffs' lawyers pay kickbacks to the lead plaintiffs who retain them. These secret arrangements divorced the interests of both the lawyers and the lead plaintiffs from the interests of the class as a whole. Full dis-

closure will prevent this situation from recurring.

The bill would also require courts to employ a competitive bidding process as one of the criteria in the approval of the lead class counsel. In current practice, courts usually defer to the lead plaintiff's choice of class counsel after reviewing the prospective lead counsel's prior work on the case, experience, knowledge, and resources. The bill would require that courts also consider the prospective lead counsel's fees, and have courts solicit competitive bids so that those fees are based on market rates. The class members deserve to be represented at a reasonable market rate. Money that goes to the lawyers is money that never makes it to the ordinary shareholders who are the victims of securities fraud. Currently, courts review attorneys' fees for reasonableness before the fees are paid at the conclusion of the case. This provision would allow courts to negotiate a reasonable fee at the threshold of the litigation.

Finally, the bill would commission a study of the last 5 years of fee awards in securities class actions to determine the average hourly rate for lead counsel. Courts may be able to use this information to better rein-in excessive attorneys' fees.

It is important that corporations be held accountable through securities fraud litigation when they cheat ordinary shareholders out of their hard-earned money. But it is equally important that attorneys be held accountable when they do the same thing. The recent securities litigation kickback scandals ought to spur Congress to action, especially because, at least according to Mr. Lerach, defrauding shareholders has become "industry practice" for securities plaintiffs' lawyers. Fortunately, Mr. Lerach and Mr. Weiss have been brought to justice, but their shareholder victims will never see all of the money out of which they were cheated by these attorneys' crimes. The Securities Litigation Attorney Accountability and Transparency Act will help prevent these crimes against ordinary Americans from being repeated in the future. I urge my Senate colleagues to quickly convene hearings on this very serious problem and move this new legislation forward.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 569—EX-PRESSING THE SENSE OF THE SENATE REGARDING THE EARTHQUAKE THAT STRUCK SICHUAN PROVINCE OF THE PEOPLE'S REPUBLIC OF CHINA ON MAY 12, 2008

Mrs. BOXER (for herself, Ms. MURKOWSKI, Mr. BIDEN, Mr. LUGAR, Mr. CASEY, Mr. CARDIN, Mr. FEINGOLD, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. DODD, Mr. WHITEHOUSE, Mr. DUR-

BIN, Ms. CANTWELL, Mr. ISAKSON, Mrs. CLINTON, Mr. SANDERS, Mrs. FEINSTEIN, Mr. LEAHY, Mr. OBAMA, and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 569

Whereas, on May 12, 2008, a powerful earthquake measuring 7.9 on the Richter Scale struck Wenchuan County in the Sichuan Province of the People's Republic of China, leaving at least 34,000 people dead, 245,000 people injured, and an estimated 5,000,000 people homeless;

Whereas authorities of the Government of the People's Republic of China report that approximately 9,500 people remain buried in Sichuan Province and another 29,000 people remain missing;

Whereas authorities of the Government of the People's Republic of China report that the final death toll is expected to exceed 50,000;

Whereas authorities of the Government of the People's Republic of China also report that as many as 4,700,000 homes were destroyed in Sichuan, Gansu, and Shaanxi Provinces and nearly 80 percent of the buildings collapsed in Beichuan County;

Whereas the sheer devastation caused by the earthquake and inclement weather has made rescue efforts exceptionally difficult, particularly in the areas hardest hit by the earthquake;

Whereas authorities of the Government of the People's Republic of China report that 158 relief workers were killed in landslides while working to repair roads in the areas most devastated by the earthquake;

Whereas the Seismological Bureau of the People's Republic of China reports that the earthquake has affected more than half of China's provinces and municipalities;

Whereas authorities of the Government of the People's Republic of China report that more than 2,000 aftershocks have occurred in the aftermath of the earthquake, some greater than a magnitude of 6.0 on the Richter Scale;

Whereas authorities of the Government of the People's Republic of China also report that 6,898 schoolrooms collapsed in Sichuan Province, trapping and killing hundreds of young students and their teachers;

Whereas the earthquake of May 12, 2008, was China's deadliest natural disaster since 1976, when hundreds of thousands of people were killed by an earthquake that struck the city of Tangshan;

Whereas, on May 12, 2008, President George W. Bush said that the United States "stands ready to help in any way possible"; and

Whereas the Prime Minister of China, Wen Jiabao, said on May 13, 2008, that "[t]he death toll and damage are more serious than we expected and we need more people here to help"; Now, therefore, be it

Resolved, That the Senate—

(1) mourns the horrific loss of life and terrible human suffering caused by the earthquake in the People's Republic of China on May 12, 2008;

(2) expresses its deep condolences to the people of the People's Republic of China and to all those affected by this enormous tragedy;

(3) expresses its profound sorrow for the families of all who lost loved ones, including those who suffered the heartbreaking loss of having their children trapped in schools that collapsed;

(4) calls on the President to respond to any requests for humanitarian assistance made by the Government of the People's Republic of China; and